

Exhibit 25

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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,

16 Plaintiffs,

17 v.

18 GOOGLE INC.,

19 Defendant.
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Case No. 3:10-cv-03561 WHA

**GOOGLE INC.'S DEPOSITION CLIPS OF
LARRY ELLISON PLAYED BY VIDEO
DURING TRIAL**

Trial Date: May 9, 2016
Dept: Courtroom 8, 19th Fl.
Judge: Hon. William Alsup

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
TRIAL EXHIBIT 7787
CASE NO. 10-03561 WHA
DATE ENTERED _____
BY _____
DEPUTY CLERK

GOOGLE INC.'S DEPOSITION CLIPS OF LARRY ELLISON PLAYED BY VIDEO DURING TRIAL
Case No. 3:10-cv-03561 WHA

1 Defendant Google Inc. submits the following deposition clips of Larry Ellison played by
2 video on May 13, 2016.

3
4 Dated: May 15, 2016

KEKER & VAN NEST LLP

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Oracle v. Google_2

 Ellison, Lawrence J. (Vol. 01) - 08/12/2011

1 CLIP (RUNNING 00:11:54.273)



Please state your name. ...

ELLISON_4

35 SEGMENTS (RUNNING 00:11:54.273)



1. PAGE 6:05 TO 6:10 (RUNNING 00:00:10.034)

05 THE REPORTER: Raise your right hand, please.
 06 You do solemnly state that the evidence you
 07 shall give in this matter shall be the truth, the whole
 08 truth and nothing but the truth, so help you God.
 09 THE WITNESS: I do.
 10 THE REPORTER: Thank you.

2. PAGE 6:13 TO 6:17 (RUNNING 00:00:11.191)

13 Q. Please state your name.
 14 A. Lawrence J. Ellison.
 15 Q. What is your business address, Mr. Ellison?
 16 A. 500 Oracle Parkway, Redwood -- Redwood City,
 17 California.

3. PAGE 9:21 TO 9:25 (RUNNING 00:00:10.351)

21 Q. Now, prior to acquiring Sun Microsystems, did
 22 Oracle make an offer to purchase just some of Sun's
 23 software assets?
 24 A. We did.
 25 Q. And how did that come about?

4. PAGE 10:03 TO 10:04 (RUNNING 00:00:05.044)

03 THE WITNESS: I decided to write a letter to
 04 the Sun board offering to buy their software assets.

5. PAGE 14:12 TO 14:14 (RUNNING 00:00:10.376)

12 Q. Now, was the initial offer for software
 13 motivated at all by a desire to compete with Apple in the
 14 smartphone business?

6. PAGE 14:16 TO 15:02 (RUNNING 00:01:01.170)

16 THE WITNESS: I think there -- certainly
 17 owning Java would give us the opportunity to develop a
 18 Java-based smartphone and Java-based mobile devices or
 19 expand. In fact, Java was already widely used in mobile
 20 devices, and our plan was to expand the Java business.
 21 In other words, we'd like to see it even more broadly
 22 used in mobile devices.
 23 So since Apple is in the mobile device
 24 business and we wanted to expand the -- the Java
 25 business, one sensible avenue for us to pursue would be
 00015:01 increasing -- the increasing use of Java in mobile
 02 devices.

7. PAGE 15:14 TO 15:15 (RUNNING 00:00:05.571)

14 Q. Was the Java presence at that time primarily
 15 limited to what are called feature phones?

8. PAGE 15:18 TO 16:04 (RUNNING 00:00:27.634)

18 THE WITNESS: At that time? At that time,
 19 Sun's business was primarily feature phones.
 20 Q. BY MR. VAN NEST: And so was one of the

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page 1

Oracle v. Google_2

21 motivating factors, in your mind, Mr. Ellison, the idea
 22 that you could use Java to expand mobile business at Sun,
 23 including into smartphones?
 24 A. Absolutely.
 25 Q. And compete with Apple?
 00016:01 A. Yes.
 02 Q. And did the idea of competing with Google's
 03 Android play any role in the decision to make this
 04 initial offer?

9. PAGE 16:05 TO 16:10 (RUNNING 00:00:18.053)

05 A. Again, we had a general notion of expanding
 06 the use of Java in the mobile device business, including
 07 feature phones and smartphones, and that -- Android was
 08 in the smartphone business, Apple was in the smartphone
 09 business. So I suppose we'd be competing with both of
 10 them, yes.

10. PAGE 47:05 TO 47:10 (RUNNING 00:00:08.968)

05 Q. And you understand that nobody owns the Java
 06 programming language; right?
 07 A. That's correct.
 08 Q. Anybody can use that without any royalty at
 09 all?
 10 A. Correct.

11. PAGE 57:19 TO 57:23 (RUNNING 00:00:20.160)

19 Q. BY MR. VAN NEST: Now, soon after the deal
 20 was announced, did you indicate that one of the top
 21 priorities for Oracle was to build a Java phone?
 22 A. I said building a Java phone is something we
 23 should explore.

12. PAGE 60:18 TO 61:11 (RUNNING 00:00:52.010)

18 Q. BY MR. VAN NEST: Take a moment, Mr. Ellison,

 2042 -



19 to review Exhibit 395 and tell me whether or not you
 20 recognize it.
 21 A. I do.
 22 Q. What is it?
 23 A. It's an email from me to Scott McNealy
 24 copying Oracle president Safra Catz and Charles Philips.
 25 Q. Does it address the building of a Java phone?
 00061:01 A. It does.
 02 Q. And you say there in the first sentence:
 03 "Scott, I think the best way to increase Java revenue is
 04 to build a mobile phone application suite on top of
 05 Java FX which will make Apple's iPhone a direct
 06 competitor of ours."
 07 Do you see that?
 08 A. I do.
 09 Q. Was that your sentiment at the time?
 10 A. I think -- obviously, at the moment I wrote
 11 this, I thought it was a good idea.

13. PAGE 62:16 TO 63:15 (RUNNING 00:01:08.007)

16 Q. And why did you regard this as the best way
 17 to increase Java revenue? Why was that the case?
 18 A. Because there are a lot of -- because I
 19 believe the smartphone -- the smartphone market will be
 20 the largest computer market in the world.
 21 Q. And was that your view at the time?
 22 A. Yeah.

Oracle v. Google_2

23 Q. So you felt the smartphone market was the
 24 best way, the best market for Oracle to explore with
 25 Java?
 00063:01 A. I thought -- I thought it was an idea we had
 02 to explore, yes.
 03 Q. And at that time, you thought it was the best
 04 idea; right? Because it was the biggest market?
 05 A. I thought it was the biggest market and it
 06 was an idea that needed to be explored, yes.
 07 Q. Now, you mention in your email here to
 08 Mr. McNealy that Apple is destined to become a major
 09 competitor.
 10 What did you mean by that?
 11 A. Apple at the time was the leading supplier of
 12 smartphones.
 13 Q. So you contemplated building a Java phone
 14 that would compete with iPhone. Is that the idea?
 15 A. That's correct.

14. PAGE 68:10 TO 68:17 (RUNNING 00:00:30.907)

10 Q. Did you talk with James Gosling about the
 11 Java phone idea?
 12 A. I believe there were email messages about the
 13 Java phone from James where he said Sun -- Sun had
 14 thought of that before us.
 15 Q. And what did he say about that?
 16 A. That for some -- some reason, Sun didn't
 17 pursue it. I don't recall what the reason was.

15. PAGE 68:18 TO 68:18 (RUNNING 00:00:03.238)

18 MR. VAN NEST: Let's mark this next in order.

16. PAGE 68:21 TO 68:23 (RUNNING 00:00:05.789)

21 Q. BY MR. VAN NEST: When you've had chance to
 22 review this, Mr. Ellison, let me know.
 23 A. Okay.

17. PAGE 68:24 TO 69:13 (RUNNING 00:00:32.800)

 2043 -



24 Q. And I'm going to be asking you about the
 25 email at the top of the page. The one below that is the
 00069:01 same one that we've been looking at.
 02 A. Okay. I've read it.
 03 Q. So do you remember getting an email from
 04 Mr. Gosling in May of 2009?
 05 A. I do.
 06 Q. And he told you that, in effect, they wanted
 07 to build a Java phone as well?
 08 A. Yes.
 09 Q. And they couldn't fund it internally so it
 10 got nowhere?
 11 A. Correct.
 12 Q. They went out and acquired a company and that
 13 didn't work?

18. PAGE 69:15 TO 69:15 (RUNNING 00:00:02.405)

15 THE WITNESS: That's what this says, right.

19. PAGE 70:20 TO 71:03 (RUNNING 00:00:28.487)

20 Q. Did there become a project within Oracle
 21 known as Project Java Phone?
 22 A. I'm not trying to be cute with semantics.

Oracle v. Google_2

23 There was never really a project. Maybe there was
 24 potential project called Java phone. Because we never
 25 funded a project. We never had a project, no. We just
 00071:01 had discussions, and we decided not to do it before we
 02 started a project.
 03 MR. VAN NEST: Let's mark this next in order.

20. PAGE 71:06 TO 71:08 (RUNNING 00:00:06.816)

06 Q. BY MR. VAN NEST: Take a moment, Mr. Ellison,

 2044-003 -

07 to review Exhibit 397 and tell us whether or not you
 08 recognize it.

21. PAGE 71:09 TO 71:09 (RUNNING 00:00:04.301)

09 A. I do.

22. PAGE 71:10 TO 71:14 (RUNNING 00:00:18.377)

10 Q. What is it?
 11 A. Again, we were discussing this potential --
 12 potential project to build a Java FX phone, and this is a
 13 review of -- of how we might go about doing that if we
 14 decided to go ahead with the project.

23. PAGE 108:11 TO 108:13 (RUNNING 00:00:10.391)

11 Q. Let's go back to Exhibit 397, which is the
 12 report on the Java phone project.
 13 A. Give me a second. Getting close.

24. PAGE 108:14 TO 108:14 (RUNNING 00:00:02.030)

14 Okay.

25. PAGE 110:22 TO 110:22 (RUNNING 00:00:05.141)

 2044-024 -

22 Q. Let's go down to page 23.

26. PAGE 110:23 TO 111:03 (RUNNING 00:00:19.008)

 2044-024 -

23 It says, "Issues" at the very top of the
 24 page, and a list of five problems. Do you see that?
 25 A. I do.
 00111:01 Q. What is your understanding of what this was
 02 intended to summarize?
 03 A. Give me a moment.

27. PAGE 111:04 TO 112:06 (RUNNING 00:01:12.544)

04 The difficulties of getting a -- we deemed it
 05 was very important to get a product to market quickly,
 06 because, again, Android was -- had a lot of momentum and
 07 was getting momentum every day. So it was very important
 08 for us to get to market quickly. And the -- it's a
 09 complicated project, so these were all of the concerns we
 10 had about initiating the smartphone project.
 11 Q. And those concerns included that there was a
 12 very short time to market?
 13 A. We had to get there quickly, yes.
 14 Q. Right. Many interlinked decisions and
 15 deliverables. That's what you meant by complex
 16 project --

Oracle v. Google_2

17 A. Exactly, yes.
 18 Q. -- right?
 19 Very limited internal expertise to make smart
 20 decisions. What did that refer to?
 21 A. We'd never built a smartphone before.
 22 Q. And didn't have the internal staff to do
 23 that?
 24 A. Correct. No experience.
 25 Q. Each decisions effects others and overall
 00112:01 cost and price. That reflects the complexity; right?
 02 A. Right.
 03 Q. And delays have an impact on successful
 04 deliver?
 05 A. Yeah. Every day that's delayed, Android got
 06 stronger.

28. PAGE 134:20 TO 134:22 (RUNNING 00:00:07.332)

20 Q. So obviously running on Java programming
 21 language with a Java virtual machine, that doesn't ensure
 22 success in the smartphone market; right?

29. PAGE 134:24 TO 135:01 (RUNNING 00:00:05.698)

24 THE WITNESS: Of course not. We decided not
 25 to go into the smartphone market with the Java virtual
 00135:01 machine.

30. PAGE 135:09 TO 135:12 (RUNNING 00:00:10.034)

09 Q. BY MR. VAN NEST: Were there any other
 10 efforts that you made to enter in to this large
 11 smartphone market, apart from the various ones we've
 12 already talked about?

31. PAGE 135:23 TO 136:21 (RUNNING 00:01:20.689)

23 THE WITNESS: We never made an effort to
 24 enter the smartphone market. We analyzed whether we had
 25 a reasonable likelihood of success if we entered the
 00136:01 smartphone market and decided, you know, that Android had
 02 already -- there already was a Java smartphone with a lot
 03 of momentum, and, therefore, we could not enter the
 04 smartphone market.
 05 Q. BY MR. VAN NEST: You've mentioned that
 06 decision or the basis for that decision a number of
 07 times. Have you seen any documents that actually reflect
 08 that a factor in your inability to get into the market
 09 was Android?
 10 A. I haven't seen any documents that enumerate
 11 why we didn't go into the smartphone market.
 12 Q. And you certainly haven't seen any that blame
 13 that on Android, have you?
 14 A. As I say, I have not seen -- I have not
 15 seen -- again, I made the decision -- it was my decision
 16 to consider the smartphone market. It was my -- you
 17 know, I put it out there, so I made the decision to do
 18 the analysis, and I made the decision to kill it. And I
 19 don't know if I wrote down -- I've never seen a document
 20 written down that we are not entering the smartphone
 21 market because of this reason.

32. PAGE 151:06 TO 151:09 (RUNNING 00:00:11.250)

06 Q. And did you present a model for expected Java
 07 financial performance to the board back in '09 when you
 08 made the acquisition?
 09 A. Probably.

Oracle v. Google_2

33. PAGE 151:10 TO 151:12 (RUNNING 00:00:10.082)

10 Q. How has the Java portion of your business
11 performed financially against that model in '09 and '10
12 and so far in 2011?

34. PAGE 151:14 TO 152:01 (RUNNING 00:00:31.712)

14 THE WITNESS: I think -- again, I think it
15 was a reasonably conservative board model. And I think
16 it's done okay, but I'd have to look at the numbers. I
17 don't know offhand.
18 Q. BY MR. VAN NEST: Has Java revenue increased
19 since you acquired Sun?
20 A. I believe so.
21 Q. By what kind of factor? Do you know?
22 A. I don't know.
23 Q. Do you know why it's increased?
24 A. We -- we're selling more. What do you mean
25 by that? We're -- we're selling -- you know, we're
00152:01 selling more of it.

35. PAGE 153:18 TO 153:23 (RUNNING 00:00:06.673)

18 Q. So you're doing better in the categories you
19 have?
20 A. Right.
21 Q. And you're expanding to the categories as
22 well?
23 A. Yeah.

TOTAL: 1 CLIP FROM 1 DEPOSITION (RUNNING 00:11:54.273)

Depo Clip of Ellison Played During Trial

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIAL EXHIBIT 7787

CASE NO. 10-03561 WHA

DATE ENTERED _____

BY _____

DEPUTY CLERK